NO.. 43788-1-II

COURT OF APPEALS, DIVISION II

STATE OF WASHINGTON

In Re The Marriage of:

JEANNE MARIE HARRIS

Appellant

v.

ROGER DUANE KELL

Respondent

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR COWLITZ COUNTY

The Honorable Judge Michael Evans

REPLY BRIEF OF APPELLANT/CROSS RESPONDENT

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REPLY TO RESPONDENT'S STATEMENT OF THE CASE

Respondent/Cross Appellant's Statement of the Case does not dispute a several factual assertions in Appellant/Cross Respondent's Statement of the Case. Respondent mistakenly argues that the findings of fact were not challenged when in fact the Appellant/Cross Respondent argued that nearly every finding was in error. She specifically stated that all of the findings of the court were inconsistent with the order of the court and should be overturned. All findings were alleged to have been in error. Appellant clearly disclosed the errors in the issues presented and in conjunction with the general orders of Division II has met her burden to challenge. The trial court acted with such prejudice that it left the Appellant/Cross Respondent with no choice but to challenge all of the discretionary rulings of the court.

¹ 1998-2 In Re the Matter of Assignments of Error GENERAL ORDER 98-2: At the request of certain appellate practitioners, the judges of this Division of the Court of Appeals have determined to waive the requirements of RAP 10.3(g), than an appellant's brief must separately assign error to each challenged jury instruction, finding of fact, or conclusion of law. Henceforth, in Division II, an appellant's or cross-appellant's brief may use a single assignment of error to identify more than one challenged jury instruction, finding of fact or conclusion of law. REPLY BRIEF

REPLY ARGUMENT

 The Trial Court Excluded Evidence of the TPP Buyout because Counsel for the Respondent/Cross Appellant Failed to Advise the Court She had the 1099g and No Discovery Violation Occurred.

On the day of trial, Respondent's attorney moved to exclude evidence which would show that Appellant's TPP payment from Allstate was income. RP 4. Jeanne Harris' new attorney had apparently not read the court file which was voluminous and was unable to counter that the document in question had been produced in court records the month prior to trial. (CP 1269). Citing what it *believed* was a discovery violation, the court improperly excluded Jeanne Harris' 1099g from consideration by the court. RP 468. This was the only rationale given by the court in its ruling. Respondent does not deny this was an erroneous finding in that the materials had been disclosed some 30 days prior. This resulted in the court mischaracterizing her income as a "community asset". CP

1451-55. The court ordered the payment of this income, in its entirety to Roger Kell over the course of the next eleven months. CP 1512. This resulted in the Appellant/Respondent paying her husband the equivalent of maintenance.

Appellant/Cross Respondent's attorney offered that the document would show that the money was a severance pay and not a community asset. His requests for consideration were denied. A court's decision is manifestly unreasonable if it is outside the range of acceptable choices, given the facts and the applicable legal standard; it is based on untenable grounds if the factual findings are unsupported by the record; it is based on untenable reasons if it is based on an incorrect standard or the facts do not meet the requirements of the correct standard. Robinson v. PEMCO Ins. Co., 71 Wn. App. 746,753, 862 P.2d 614 (1993). Respondent/Cross Appellant does not deny that Ms. Harris had a replacement counsel four days prior to trial or that her request for a continuance was unreasonable. She was unaware that her hired counsel would not be available for trial and she was left with a brand new attorney who had not had time to review the case file before the deadline, mere days

away. The Appellant/Respondent has shown that the denial was manifestly unreasonable. *Port of Seattle v. Equitable Capital Group, Inc.* 127 Wn. 2d 202 (1995).

2. Appellant/Cross Respondent Showed That Denial of Continuance Created Material Prejudice

First of all, the Appellant/Cross Respondent was not present when the trial continuance was argued. Her attorney of record participated in the proceeding and failed to request that an order be entered as to the court's findings. CP 1413-1414, 1476-78. The denial of the continuance created an impossible task for the Appellant's attorney to prepare for trial. This was displayed by his lack of knowledge of the disclosure of the 1099g, nearly a month prior to the trial date. CP 1413-14, 1477-79. Appellant's counsel specifically advised the court (an offer of proof), that the document would show that the financial source was income and not a community asset. The court denied Appellant's request on untenable grounds. CP 1413-14,1657. It was error for the court to deny the continuance based upon the unanticipated circumstances which presented themselves.

3. Respondent/Cross Appellant does not Deny that the Document was produced at Least 30 days Prior to Trial Respondent does not deny that the 1099g was produced at least 30 days prior to trial and that counsel for the Respondent misspoke or misled the court when she stated that it had not been produced at all. (CP 1269, RP 1-4). It bears repeating that a lesser sanction, including a financial sanction would have been the appropriate remedy if the trial court felt that the Appellant had violated the court's orders. Prior to the trial, the court and the parties had misidentified the TPP payout as a property settlement rather than income. CP 693-698 1097-1100, 1371-1374. Not until the Petitioner had her accountant prepare her tax accounting that she was notified that the TPP payout was a severance package and it was 12 month's salary, for which she would pay income tax and not capitol gains. CP 1269. On the day of trial, the attorney for Appellant made a motion to allow the 1009g be produced in day two of trial. RP 1-4. Roger Kell's counsel argued that because the evidence had not been provided to her, that the evidence should be

excluded. She failed to advise the court that she had in fact

received documentation, including the 1099g in discovery. RP 1-4, CP 611, CP1120. CP 1232. She improperly argued that the February 17, 2012 contempt order precluded the court from considering the evidence. Appellant's counsel was not aware that the 1099g had already been filed as part of Jeanne Harris' March 2012 motion to stop payments from going to Roger Kell's attorney. CP 1269, RP 1-4. Without the ability to correct the inaccurate statement of Roger Kell's attorney, the court suppressed entry of the 1099g in trial. This was the only reason proffered for the non-admission of the crucial evidence. "Sanctions are appropriate only when a party fails 'to obey an order to provide or permit discovery.' CR 37(b)(2)." In other words, obtaining an order to compel is mandatory before expecting any sanctions to be applied for failure to cooperate in discovery. Chen v. State Farm Ins., 123 Wn. App. 150, 94 P.3d 326 (2004) "When the trial court 'chooses one of the harsher remedies allowable under CR 37(b), ... it must be apparent from the record that the trial court explicitly considered whether a lesser sanction would probably have sufficed,' and whether it found that the disobedient party's

refusal to obey a discovery order was willful or deliberate and substantially prejudiced the opponent's ability to prepare for trial. Snedigar v. Hodderson, 53 Wn. App. 476, 487, 768 P.2d 1 (1989) 'it is an abuse of discretion to exclude testimony as a sanction [for noncompliance with a discovery order] absent any showing of intentional nondisclosure, willful violation of a court order, or other unconscionable conduct.' Fred Hutchinson Cancer Research Ctr. v. Holman, 107 Wn.2d 693, 706, 732 P.2d 974 (1987) (quoting Smith v. Sturm, Ruger & <u>Co.</u>, 39 Wn. App. 740, 750, 695 P.2d 600, 59 A.L.R.4th 89, review denied, 103 Wn.2d 1041 (1985))" Magana v. Hyundai *Motor America*, 141 Wn. App. 495, 170 P.3d 1165 (2007); Burnet v. Spokane Ambulance, 131 Wn.2d 484, 494, 933 P.2d 1036 (1997) "[We] hold that the reference in Burnet to the 'harsher remedies allowable under CR 37(b)' applies to such remedies as dismissal, default, and the exclusion of testimony—sanctions the affect a party's ability to present its case—but does not encompass monetary compensatory sanctions under CR 26(g) or CR 37(b)(2). The court abused its

discretion in a primary issue before the court and resulted in a unfair and prejudicial outcome against the Appellant.

4. Respondent Does Not Deny that the Findings of Fact and
Conclusions of Law do not Match The Actual Findings of
the Court

Respondent argues that the court's issued findings CP 1446-1455, do not match the "Findings" prepared by Respondent's counsel and entered by the court over the objection of the Appellant. RP 468-481. Appellant argued to the court that she opposed entry of orders which not consistent with the court's ruling and where the documents conflicted with each other. RP 468-481, CP 1446-1455. It was an abuse of discretion for the court not to allow her to correct the record and enter orders consistent with the court's own ruling. There was no evidence that the Appellant was disruptive or in any way unreasonable in her attempt to place her objections on the record. The court simply dismissed her within a few seconds of her attempt to object. The math alone in the findings and decree were inconsistent regardless of whether the Appellant agreed with who received an asset. The numbers do not match up in any

way, shape or form to what the court ordered, and there was no indication in any record as to why the Findings prepared by Respondent's counsel did not follow the court's own ruling. It was an abuse of discretion for the court not to correct the orders.

5. The Court Erred When It Assigned Appellant's Severance Pay to the Respondent

Respondent argues that the court's division of Appellant's Severance pay was proper under the circumstances. His argument is that she failed to "prove" that the buyout payments were severance. (Resp. Br. 25). The very nature of the buyouts was prevented from being entered at trial because of the actions and objections of the Respondent. Respondent seeks to benefit from the improper objection at trial to a document that was in his possession for over a month. Had the trial court allowed her the opportunity to present her evidence, she would have clearly been able to indicate under *In Re Marriage of Bishop*, 46 Wn. App 198 (1986), that the money provided by Allstate, was in fact her separate property, and a severance package.

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In re Marriage of Bishop, 46 Wn. App. 198, 203, 729 P.2d 647 (1986). This asset was the separate Property of the Appellant and should have been awarded to her. It was an abuse of discretion for the court to deny her an opportunity to show that the asset was in fact her separate property.

6. The Trial Court Abused Its Discretion In Valuing Time Share

The court found that the Sunterra Property was owned as 91 points by Jeanne Harris prior to marriage and that she purchased another 105 points during the marriage. It assessed a total value of \$2000.00. CP 1449. There is nothing in the record to suggest otherwise as purported by the Respondent. The Decree mistakenly states that the wife was awarded 196 points, purchased during the marriage and valued at \$8000.00. CP 1505. The balance sheet attached to the decree appoints a value to Jeanne Harris of \$4000.00.CP 1515. The math is simply wrong and not support by the record. It was error for the court to enter these numbers into the decree.

7. The Trial Court Erred in Valuing Pensions

Respondent calls the Appellant nitpicking when she correctly points out that the values that the trial court assigned to the pensions were changed when the decree was entered. (Resp Br. 28-29). Concealment of assets (even unsuccessfully) may be a factor for consideration in dividing property.

In re Marriage of Wallace, 111 Wn. App. 697, 708, 45 P.3d 1131 (2002). Any uncertainty as to values of assets or proceeds received from assets should be resolved against a spouse who

received from assets should be resolved *against* a spouse who fails to provide records in his or her control. *In re Marriage of Thomas*, 63 Wn. App. 658, 664, 821 P.2d 1227 (1991). The Respondent withheld information on the true value of the assets which were being divided by the court. Nowhere in the court's record does it state that the increase in values assigned to the Respondent were a result of any market forces. Instead Respondent misled the court as to the true value of his assets and when the court awarded the values stated at trial, The Respondent changed the amounts entered in the decree, and a manifest injustice was accomplished. It was perfectly logical and reasonable apparently for the Respondent to claim that his

Cornell Pension Trust was work \$15,756 at trial, but then without explanation, award himself \$23,870.00 in the court orders. If the information before the court was accurate, the Respondent would have instead awarded himself the \$15,756.00 plus or minus any market gains. Instead, inexplicably, he awarded himself different amounts altogether. It was apparently logical to claim that the value of ALCOA pension was \$5950.00 at trial, but valued at \$45,950.00 in the final orders. (Resp. Br p. 29) Obviously, a mistake of this magnitude affects the final distribution of assets of the marriage and distorts the value each party would receive as a result of the distribution. It is only when all assets and debts of the marriage including their true value are before the court, that a proper and equitable distribution can be made. The Respondent's obvious position of "hide the ball" worked to his advantage. If you tell the court that an asset is worth \$5950.00 at trial and the court awards you the entire account, and the true value of the account is \$45,950.00, how that not be prejudice? The remainder of Respondent's arguments on the pension distributions seem to plea to this court to ignore the fact that

the numbers are clearly wrong and do not represent what was awarded or testified to at trial. Instead, the Respondent would have this court ignore the disparity in the information and pretend the windfall the Respondent received as a result of this deception does not create prejudice against the Appellant. It was clearly error for the orders not to reflect the information presented at trial and the trial court should redefine the true values and make and equitable distribution based upon those true values.

8. The Trial Court Erred When It Removed the Loving Pet of the Appellant from Her At Trial

Respondent does not argue that Appellant had Lily as her constant companion for four years post-separation. (Resp. Br.

32). Respondent testified that he had purchased his own dog post separation. There was no argument that the dog was purchased by the Petitioner, that it was registered in her name and that she had developed a strong bond over the four years she was the sole provider for the animal. CP 317, 321. RP 52-

62, 67. The only issue the court had with the Appellant is that

once, she had difficulty paying her mortgage and the vet bill. RP 338-339, 425. CP 317. That was not a reason for the court to ignore the sentimental value of the dog to its owner. It was error and an abuse of discretion to remove the pet from its owner.

9. The Trial Court Erred in Preventing the Appellant from Making a Record of her Objections

The trial court exhibited no patience of any kind with the Appellant. There is nothing on the record to indicate that she was being anything other than proper in her objections. (RP 468-81). The court simply shut her down without explanation as quoted in Appellant's brief and displayed what can only be described as discourteous conduct to the Appellant. Judges are required to display decorum and respect in their courtrooms and are to treat litigants fairly. A review of the proceedings indicates that the court was abrupt and discourteous, preventing the Appellant from making a record of her objections. (RP 468-481). The court's actions prevented the Appellant from making a proper record for appeal. She should be given the greatest latitude in presenting her issues before this court.

10. The Trial Court Erred in Assigning a Payment Plan

A judgment comes with its own remedies. In addition, nothing in the court's findings authorized such a payment plan in the decree. CP1446-1455. This language was arguably added by Roger Kell without court authority. CP 1446-1455. Again, the Respondent does not deny that the court did not direct that this provision be added, only inferring that he should be able to supplement any order of the court with any language he chooses without consequence. The injustice of this case stems not only from the procedural errors of the court in abuse of its discretion, but the abuse of the Respondent to modify orders of the court to his own choosing and then requesting this court to sanction them. There was no argument at the trial level, and no justification under the law for a payment plan to be entered against the Appellant. Mysteriously, it appeared in the final orders. This type of conduct, was an abuse of process by the Respondent should not be condoned. There was no evidence before the court that enforcement of the judgment by any other means, other than what is statutorily provided, was authorized

and was error in being entered. (CP 1500, 1512, 1518). Respondent can provide no authority in law to substantiate the "payment plan". It was created post trial, by Respondent when he prepared the orders and it was error for the trial court to sign off on this requirement. Upon the entry of a judgment, all property of the debtor is subject to execution on the judgment. which may be against property, for delivery of property, or to require obedience of a court order. RCW 6.17.060. Simply stated, a judgment comes with its own remedies. (supplemental proceedings, garnishment, etc.). There was no established need, or legal authority for the Respondent to add a payment provision to the decree and the court did not authorize it. The mere signing of the orders does not mean that the court intended for this provision to be added, especially in light of the fact that the Appellant was prohibited from specifically objecting to its inclusion. (RP 468-481).

11. The Trial Court Abused Its Discretion In Awarding Attorney Fees to Respondent.

Appellant is nearly destitute post trial. (exhibit "A"). She cannot afford the cost of trial, owes thousands to her attorneys

and has asked this court for an award of fees for having to appeal her case. Both parties spent in excess of \$50,000.00 in attorney fees in the case, despite the disparity in their income. (CP 1653). A trial court may consider whether legal fees were caused by one party's intransigence and award attorney fees on that basis. *In re Marriage of Greenlee*, 65 Wn. App. 703, 708, 829 P.2d 1120, review denied, 120 Wn.2d 1002 (1992). However, in order to do so, the court must find facts sufficient to support the conclusion. *In re Marriage of Bobbitt*, 135 Wn. App. 8, 30, 144 P.3d 306 (2006). When Jeanne Harris filed and lost motions, she was previously ordered to pay attorney fees. (CP 1653, CP 1099, CP 1371, CP 1375). The court made no mention of the fact that Roger Kell was intransigent himself in that he received discovery demands in August of 2008 and by January of 2009, nothing had been received by Jeanne Harris. CP 13. Jeanne Harris had to file her own motion to compel to obtain discovery February 2, 2009. CP 200. The court erred when it stated that Jeanne Harris, "doggedly abused the discovery process and has been found in contempt for that abuse, which dramatically increased attorney fees". CP 1442.

The case record shows that the trial was set in this case on June 11, 2010, September 7, 2010, May 24, 2011 and August 19, 2011. None of the cancellations of the trial were at the behest of Jeanne Harris. One was requested by Roger Kell (CP 1413-1415), the remaining dates were cancelled due to "Court Congestion". CP 340, 396- 397,503-504, 1476. Despite the cancellations by the court numerous times, the only one continuance requested by Jeanne Harris was denied. CP 1477-1478. One of the real reasons for the increase in litigation fees was the failure of the court to conduct the trial in a timely manner. There were no findings made on the record by the court as to what caused "court congestion" but suffice it to say that to allow a contested dissolution to languish for four years, was in and of itself an abuse of discretion of the court. Additionally, the majority of motions filed in the case, were filed by Roger Kell's attorney CP 326-311, 1206-1208,1418-1420,308-313,341-347,397-405,1413-1415,1456-1457. Both sides submitted motions to compel discovery during the course of the litigation. CP326-331,263-306,200-227. The court's summary statement regarding Jeanne Harris is not supported by

the evidence. It was error for the court to award fees to the Respondent.

ARGUMENT OF CROSS-APPEAL

A. The Trial Court Has Discretion to Set Interest Rates

While the Appellant/Cross Respondent disagrees with any judgment against her by the trial court, it is clearly within the discretion of the court to set the interest rate for judgment. *In Re Marriage of Harrington*, 85 Wn. App 613 (1997). There was adequate evidence in the record as to the disparity of the incomes of the parties.

B. The Trial Court Did Not Err in Awarding Rent to the Appellant

Community contributions to separate property may create a right of reimbursement to the community, but should be offset by the benefits realized by the community. *In re Marriage of Pearson-Maines*, 70 Wn. App. 860, 855 P.2d 1210 (1993); *In re Marriage of Miracle*, 101 Wn.2d 137, 675 P.2d 1229 (1984). The amount of reimbursement to the community is discretionary. In this case, Respondent resided in the home of the Appellant and received the

benefit of residing there in exchange for any contributions or

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Josephine C. Townsend Attorney at Law, WSBA 31965 211 E. 11th Street Suite 104 Vancouver WA 98660 improvements he made to her property. The amount of contributions he made to the home were found by the court to be significantly less than the benefit he received and the payment of rent was proper under the circumstances.

Conclusion

Appellant/Cross Respondent moves this court to:

- 1. Vacate the findings of fact and conclusions of law and final decree;
- 2. Remand the case for a new trial with a new judge;
- Disgorge Jeanne Harris' separate property (TPP severance pay)
 from Roger Kell and have it returned to her pending further proceedings;
- 4. Return Lily to Jeanne Harris
- 5. Award Jeanne Harris attorney fees for having to bring this appeal Upon a request for fees and costs, this court will consider the parties' relative ability to pay and the arguable merit of the issues raised on appeal. *In re Marriage of Leslie*, 90 Wn. App. 796, 807,954 P.2d 330 (1998). This Court should award attorney fees to Jeanne Harris pursuant to RCW 26.09.140 and RAP 18.1.

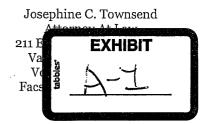
Respectfully submitted this March 8, 2013

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Superior Court of Washington County of COWLITZ In re: JEANNE HARRIS Petitioner, And ROGER KELL Respondent. Date of Birth: 1. Summary of Basic Information Declarant's Total Monthly Net Income (from § 3.3 below) Declarant's Total Monthly Household Expenses (from § 5.9 below) Declarant's Total Monthly Debt Expenses (from § 5.11 below) Declarant's Total Monthly Debt Expenses (from § 5.11 below) Declarant's Total Monthly Expenses (from § 5.12 below) Sectionate of the other party's gross monthly income (from § 3.1g below) II. Personal information 2.1 Occupation: Council Member 2.2 The highest year of education completed: 16 2.3 Are you presently employed? Yes a. If yes: (1) Where do you work. Employer's name and address must be listed on the Confidential Information Form. (2) When did you start work there? (month/year) (2) What were your gross monthly earnings? (3) Why are you presently unemployed?						•
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Name: Date of Birth:	ROGI	ER KELL				
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Declarant's Total Monthly Expenses (from § 5.12 below) Estimate of the other party's gross monthly income (from § 3.1g below) II. Personal Information 2.1 Occupation: Council Member 2.2 The highest year of education completed: 16 2.3 Are you presently employed? Yes a. If yes: (1) Where do you work. Employer's name and address must be listed on the Confidential Information Form. (2) When did you start work there? (month/year) 11/1997 b. If no: (1) When did you last work? (month/year) (2) What were your gross monthly earnings?	Decla	rant's Total Mor	nthly Household	Expenses (from §	5.9 below)	
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2.2 The highest year of education completed: 16 2.3 Are you presently employed? Yes a. If yes: (1) Where do you work. Employer's name and address must be listed on the Confidential Information Form. (2) When did you start work there? (month/year) 11/1997 b. If no: (1) When did you last work? (month/year) (2) What were your gross monthly earnings?				II. Personal In		
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 a. If yes: (1) Where do you work. Employer's name and address must be listed on the Confidential Information Form. (2) When did you start work there? (month/year) 11/1997 b. If no: (1) When did you last work? (month/year) (2) What were your gross monthly earnings? - 				• • •	•	
b. If no: (1) When did you last work? (month/year) (2) What were your gross monthly earnings?	2.3	a. If yes:	(1) Where do Confider	you work. <mark>Emplo</mark> y ntial Information	Form.	
(2) What were your gross monthly earnings?						1
		b. If no:	(1) When did yo	ou last work? (moi	nth/year)	
(3) Why are you presently unemployed?			(2) What were y	our gross monthly	y earnings? -	
			(3) Why are yo	ou presently unem	nployed?	en e

Financial Declaration (FNDCLR) - Page 1 of 6 WPF DRPSCU 01.1550 (6/2006) - RCW 26.18.220 (1)



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III. Income Information

If child support is at issue, complete the Washington State Child Support Worksheet(s), skip Paragraphs 3.1 and 3.2. If maintenance, fees, costs or debts are at issue and child support is Not an issue this entire section should be completed. (Estimate of other party's income information is optional.)

3.1 Gross Monthly Income

a.

b.

C.

Imputed Income

Wages and Salaries

Interest and Dividend Income

If you are paid on a weekly basis, multiply your weekly gross pay by 4.3 to determine your monthly wages and salaries. If you are paid every two weeks, multiply your gross pay by 2.15. If you are paid twice monthly, multiply your gross pay by 2. If you are paid once a month, list that amount below.

JEANNE HARRIS

\$1,781.00

ROGER KELL

d.	Business Income	-	-
e.	Spousal Maintenance Received	-	-
	From		
	Other Income	\$1,695.00	-
g.	Total Gross Monthly Income (add lines 3.1a through 3.1e)	\$3,476.00	-
h.	Actual Gross Income (Year-to-date)	••	-
Мо	onthly Deductions From Gross Income		
	•	JEANNE HARRIS	ROGER KELL
a.	Income Taxes	-	-
b.	FICA/Self-employment Taxes	\$134.14	_
C.		-	-
	•	-	
		\$116.26	-
		-	-
		-	-
n.	(add lines 3.2a through 3.2g)	\$250.40	-
		\$3,225.60	
	e. f. g. h. Mo	e. Spousal Maintenance Received From f. Other Income g. Total Gross Monthly Income	e. Spousal Maintenance Received From f. Other Income g. Total Gross Monthly Income (add lines 3.1a through 3.1e) h. Actual Gross Income (Year-to-date) Monthly Deductions From Gross Income Monthly Deductions From Gross Income JEANNE HARRIS a. Income Taxes b. FICA/Self-employment Taxes c. State Industrial Insurance Deductions d. Mandatory Union/Professional Dues e. Pension Plan Payments f. Spousal Maintenance Paid g. Normal Business Expenses h. Total Deductions from Gross Income (add lines 3.2a through 3.2g) Monthly Net Income (Line 3.1f minus line 3.2h \$3,225.60

Financial Declaration (FNDCLR) - Page 2 of 6 WPF DRPSCU 01.1550 (6/2006) - RCW 26.18.220 (1)

1		
2	3.4 Miscellaneous Income JEANNE HARRIS a. Child support received from other	ROGER KELL
3	relationships Name:	_
4	Name: b. Other miscellaneous income	-
	(list source and amounts) Income of current spouse	
5	Name: - Name: -	-
6 _	Income of children Name:	- .
7	Name: -	- -
8	Income from assistance programs Name: -	· <u>-</u>
	Name: Non-recurring income	
9	Name:	-
10	Other Income:	-
11		-
12	_	-
	c. Total Miscellaneous Income	- -
13	(add lines 3.4a through 3.4b)	
14	3.5 Income of Other Adults in Household Name:	-
15	Name: -	-
16	3.6 If the income of either party is disputed, state monthly income you believe explain below:	is correct and
17	IV. Available Assets 4.1 Cash on hand	\$25.00
18	4.2. On deposit in banks	\$250.00
19	4.3 Stocks and bonds Cash value of life insurance	- -
20	4.4 Other liquid assets:	-
20	V. Monthly Expense Information	
21	Monthly expenses for myself and dependents are: (Expenses should be ca after separation, based on the anticipated residential schedule for the children.)	iculated for the future,
22	5.1 Housing	
23	Rent, 1st mortgage or contract payments Installment payments for other mortgages or encumbrances	\$2,256.00 \$563.00
24	Taxes & insurance (if not in monthly payment) Total Housing	\$22.00
25	i otal flousilig	\$2,841.00

Financial Declaration (FNDCLR) - Page 3 of 6 WPF DRPSCU 01.1550 (6/2006) - RCW 26.18.220 (1)

1			
2	5.2	Utilities Heat (gas & oil)	\$63.00
3		Electricity Water, sewer, garbage	\$46.00 \$34.00
-		Telephone	\$34.00 \$154.00
4]	Cable Other:	-
5		Total Utilities	\$297.00
6	5.3	Food and Supplies	
7		Food for 1 persons Supplies (paper, tobacco, pets)	\$100.00 \$75.00
•		Meals eaten out	Ψ13.00 -
8		Other: Total Food Supplies	\$175.00
9	5.4	Children	
10	0.1	Day Care/Babysitting	-
10		Clothing Tuition (if any)	-
11		Other child-related expenses	-
12		Total Expenses Children	
12	5.5	Transportation	
13		Vehicle payments or leases Vehicle insurance & license	\$200.00
14		Vehicle distrance & license Vehicle gas, oil, ordinary maintenance	\$95.00 \$100.00
177		Parking Other transportation expanses	\$5.00
15		Other transportation expenses Total Transportation	\$400.00
16	5.6	Health care (Omit if fully covered)	
17		Insurance	\$16.00
17		Uninsured dental, orthodontic, medical, eye care expenses	\$185.00
18		Other uninsured health expenses Total Health Care	\$110.00
19			\$311.00
13	5.7	Personal Expenses (Not including children) Clothing	\$75.00
20		Hair care/personal care expenses	\$50.00
21		Clubs and recreation Education	\$20.00
4 I		Books, newspapers, magazines, photos	\$26.00 \$8.00
22		Gifts Other:	-
23		Total Personal Expenses	- \$179.00
24			•
25			

Financial Declaration (FNDCLR) - Page 4 of 6 WPF DRPSCU 01.1550 (6/2006) - RCW 26.18.220 (1)

1							
2	5.8	Miscellaneous Expenses Life insurance (if <u>not</u> deducte Other: Itd	d from incon	ne)			\$168.00 \$80.00
3		Other: tuition Total Miscellaneous Expens	ses				\$16.00 \$264.00
4	5.9	Total Household Expenses	S				\$4,467.00
5	5.10	(The total of Paragraphs 5.1 t Installment Debts Included		ha 5 1 The	rough E 0		
6		editor/Description of Debt		Balance		Month of Last F	Payment
7			•	-			
8				- - ,			
				-			
9		· -		-			-
10	Ì			-			
11	5.11	Other Debts and Monthly E	xpenses no	- t Included	in Paragraphs 5		
12	<u>Credi</u>	tor/Description of Debt	<u>Balance</u>		Month of Last Payment		ount of <u>/ Payment</u>
13			-				-
4.4			-				-
14			-				-
15			-				-
4.5			-				-
16			-				-
17			-				-
40			-		-		-
18				•			-
19	2.		-				-
20			-				-
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	I			. •	•	•	

Financial Declaration (FNDCLR) - Page 5 of 6 WPF DRPSCU 01.1550 (6/2006) - RCW 26.18.220 (1)

Total Expe	Monthly Payments for Other Debts and Monthly nses	- -
5.12	Total Expenses (Add Paragraphs 5.9 and 5.11)	\$4,467.00
	VI. Attorney Fees	
6.1	Amount paid for attorney fees and costs to date:	\$23,000.00
6.2	The source of this money was: savings/credit	
6.3	Fees and costs incurred to date:	\$6,500.00
6.4	Arrangements for attorney fees and costs are: \$3000 in costs, \$3500 in fee	s - to be arranged
6.5	Other:	
Signa	ture of Declarant	
The fo	llowing financial records are being provided to the other party and filed separal	tely with the court.
Financ	ial records pertaining to myself:	
	[] Individual [] Partnership or Corporate Income Tax returns for the years: including all W-2s and	d schedules;
	[] Pay stubs for the dates of	
	[] Other:	
Do no	t attach these financial records to the financial declaration. These financial on the other porty and filed with the assert declaration.	cial records should
docun	ved on the other party and filed with the court separately using the seale nents cover sheet (WPF DRPSCU 09.0220). If filed separately using the c	d financial source cover sheet, the
docun record	ved on the other party and filed with the court separately using the seale nents cover sheet (WPF DRPSCU 09.0220). If filed separately using the classification is sealed to protect your privacy (although they will be available to their attorneys, court personnel and certain state agencies and boards.)	d financial source cover sheet, the o all parties in the
docun record case, t	nents cover sheet (WPF DRPSCU 09.0220). If filed separately using the case is will be sealed to protect your privacy (although they will be available to	d financial source cover sheet, the o all parties in the See GR 22 (c)(2).

Financial Declaration (FNDCLR) - Page 6 of 6 WPF DRPSCU 01.1550 (6/2006) - RCW 26.18.220 (1) Josephine C. Townsend Attorney At Law 211 E. 11th Street Suite 104 Vancouver WA 98660 Voice: 360-694-7601 Facsimile: 360-694-7602

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- 1		
1	CERTIFICATE OF SE	RVICE
2	I hereby certify, that on this date, I served the attached	Δnnellant's
3	Reply brief email (PDF) to	rippellant s
4	Noelle A. McLean PS	
5	Attorney At Law	
6	206 West Main Street P.O. Box 757	
7	Kelso WA 98626	
8		
9	Valerie A. Villacin Catherine W. Smith	
10	Attorneys At Law Smith Goodfriend P.S.	
11	500 Watermark Tower	
12	1109 First Avenue Seattle WA 98101	
13		
14	Court Of Appeals	
15	Division II 950 Broadway, Suite 300	
16	Tacoma WA 98402	
17		
18	Dated this March 8, 2013	
19	0,0	
20	D muse co	,
21	Josephine C. Townsend	•
22	Attorney at law 211 E. 11 th Street Suite 104	
23	Vancouver WA 98660	
24		
25		
26		Λ.

TOWNSEND LAW

March 08, 2013 - 9:33 PM

Transmittal Letter

Document Uploaded:		437881-Appellant Cross-Respondent's Brief.pdf				
Case Na	me: Appeals Case Number:	Harris v Kell				
Court or	Appeals Case Nulliber.	43/00-1				
Is this a	a Personal Restraint F	Petition? Yes No				
The docu	ument being Filed is:					
	Designation of Clerk's	Papers Supplemental Designation of Clerk's Papers				
0	Statement of Arranger	nents				
0	Motion:					
Ö	Answer/Reply to Motio	n:				
(A)	Brief: <u>Appellant Cros</u>	s-Respondent's				
	Statement of Additiona	al Authorities				
	Cost Bill					
	Objection to Cost Bill					
Carl	Affidavit					
0	Letter					
	Copy of Verbatim Repo	ort of Proceedings - No. of Volumes:				
0	Personal Restraint Peti	tion (PRP)				
Carlo	Response to Personal I	Restraint Petition				
	Reply to Response to F	Personal Restraint Petition				
	Petition for Review (PR	V)				
	Other:					
Com	ments:					
\{	No Comments were entered.					
		wnsend - Email: jctownsend@aol.com				

A copy of this document has been emailed to the following addresses:

Valerie@washingtonappeals.com Noelle@noellemclean.com ian@washingtonappeals.com